

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6245

BILL NUMBER: HB 1059

NOTE PREPARED: Feb 24, 2010

BILL AMENDED: Feb 23, 2010

SUBJECT: Property Tax Billing.

FIRST AUTHOR: Rep. VanDenburgh

FIRST SPONSOR: Sen. Kenley

BILL STATUS: As Passed Senate

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides for mandatory provisional billing for property taxes first due and payable after 2010 if property tax bills were delayed in the immediately preceding year (unless a provisional statement was used in that immediately preceding year) and the county council or county treasurer determines that the county auditor has failed or will fail to deliver the abstract for that assessment date to the county treasurer before April 1 of the year following the assessment date. It provides that the Department of Local Government Finance may waive the requirement that a mandatory provisional statement must be used, if the Department determines that certain conditions have been met.

The bill provides that the first installment under a voluntary or mandatory provisional bill is due and payable not later than May 25. It provides that either the county council or county treasurer may determine that a voluntary provisional bill shall be used. It provides that certain information is not required to be included on a provisional bill, but must be included on the reconciling statement. It provides that the first installment of the taxpayer's tax liability is equal to 50% of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued, subject to any adjustments to the tax liability as prescribed by the Department of Local Government Finance, including any necessary adjustments for credits, deductions, or local option income taxes. It provides that the second installment will either be an amount specified in a reconciling statement or, if a reconciling statement is not sent until after the second installment is due, an amount equal to 50% of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued, subject to any adjustments by the department of local government finance.

Request for Property Tax Distribution: The bill also entitles a taxing unit to interest generated by the county on property tax collections if the county treasurer fails to meet the deadline for compliance with a request for advance distribution of the collections.

Effective Date: July 1, 2010.

Explanation of State Expenditures: Under this bill, the Department of Local Government Finance (DLGF) may prescribe standards for processing provisional statements including a method of calculating the taxes due when the county's abstract or other information is not complete. The agency should be able to implement this requirement assuming near customary agency staffing and resource levels.

Explanation of State Revenues:

Explanation of Local Expenditures: Most counties transmit a single mailing each year containing bills for both installments of property taxes. Counties that send provisional bills must send bills in two mailings (the initial bill and the final reconciling statement). Under this proposal, for taxes payable in 2011 and after, some counties that would not have elected to issue a provisional bill would now have to do so. These counties would in effect have to mail two tax statements, thereby doubling the processing costs of sending out tax bills (the cost to prepare and send a tax statement is estimated at approximately \$1.00 per mailing). On the other hand, the use of provisional tax bills in many counties could reduce or eliminate the cost of short-term borrowing.

Counties that do send out provisional bills would have to transfer some information currently printed on the first installment (e.g. delinquent taxes, any special assessments, penalties and interest etc) to the reconciling statement. This may involve making software changes to the billing system and/or redesigning the reconciling statement. This could potentially result in additional costs to the county.

Explanation of Local Revenues: (Revised) Under current law, a county may elect to send out provisional property tax statements to its taxpayers if it did not complete the abstract of its property by March 15th of the tax payment year. The abstract is prepared when tax rates are certified and tax bills are computed. Provisional bills are based on 100% of the previous year's taxes. When the county completes its abstract, the county sends a reconciling statement in the amount of the actual tax liability minus the amount they paid under the provisional bill. If the actual tax is less than the amount paid under the provisional bill, the taxpayer would be issued a refund.

If the county treasurer determines that it is possible to send the reconciling statements by October 10th, the treasurer may currently request permission from the DLGF to issue the reconciling statement as a replacement for the second installment of provisional taxes.

This bill changes the conditions under which a county would issue a provisional bill, and also modifies the information that must be included in the reconciling statement. As under current law, the bill gives counties the option of issuing a provisional bill. In addition, however, the bill outlines the conditions under which the issuing of a provisional bill would become mandatory.

For taxes payable in 2010 and after, provisional billing is optional if the county council or county treasurer determines that the county auditor cannot deliver the abstract to the county treasurer on time (current law authorizes only the treasurer to make this decision). The deadline for the delivery of the 2010 abstract is the same as under current law (i.e. March 15th); after 2010, this deadline is extended to April 1st. For taxes payable in 2010, the county, at its discretion, may elect to send out a single provisional bill (with both May and November installments). For taxes payable after 2010, the May 10th installment would be delayed until May 25th.

For taxes payable in 2011 and after, provisional billing becomes mandatory if property tax bills were delayed the previous tax year and the county treasurer or county council determines that the abstract would not be delivered on time again (i.e. by April 1st). In other words, if a county is late in sending out tax bills for a single year, the bill does not take effect. However, if the county is late for a second consecutive year, the bill takes effect and the county must issue a provisional bill. The only exception is if the county issued a provisional bill the previous year; in this case the county would not be obligated to issue a provisional bill in the current year. The DLGF, however, may waive the requirement that a provisional bill be issued if the county fiscal body or the county treasurer requests the waiver, and the DLGF determines that the county would still be able to send out its current year's tax bills by May 25th .

The first installment (May 10th or May 25th) would be for 50% of the previous year's taxes (note that the previous year's taxes may be recalculated to take into account new construction, damage to the property, and adjustments for credits, deductions, and local option income taxes). The November installment would be for either the remainder of the current year's taxes (if the reconciling statement is issued in lieu of the second installment of provisional taxes), or for 50% of the previous year's taxes if the abstract still has not been completed.

The bill also transfers the information that would normally be on the first installment, to the reconciling statement. Under current law, the first installment has information on delinquent taxes, any special assessments, penalties and interest, and a checklist that shows all property tax deductions and homestead credits, an explanation of the procedure and forms to be used to apply for a deduction, and penalties for unlawfully claiming a deduction. This additional information would now have to be printed on the reconciling statement.

Assuming that many counties could issue the reconciling statement in lieu of the second installment of property taxes, few refunds would have to be issued in those counties. However, if the reconciling statement is delivered after payment of both installments of the provisional bill, then the county will have to issue refunds to correct any overpayments.

Under this bill, the revenue stream for those counties whose regular tax bills were going to be late would be more consistent as counties would, at a minimum, be guaranteed the previous year's taxes. In many counties this could restore normal cash flow and reduce or eliminate the cost of short-term borrowing for local civil taxing units and school corporations.

Request for Property Tax Distribution: Under current law, the county treasurer has up to 30 days to comply with a written request from a taxing unit for an advance distribution of property tax collections. Under this bill, if the county auditor is late in transferring the funds, the requesting taxing unit is entitled to interest on the unpaid balance. The amount of interest would be the same as it would be when the auditor is late under current law, and would cover the period from the date the county treasurer receives the request to when the funds were transferred to the taxing unit.

State Agencies Affected: DLGF.

Local Agencies Affected: County councils; County auditors; County treasurers.

Information Sources:

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